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Cases, Regulations and Statutes

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CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

CHAPTER 12

AUTOMATIC STAY. The debtors filed for Chapter 12 and received confirmation of their plan. Before the case was closed, a creditor filed a foreclosure suit against the debtor's home and the debtor filed a motion which claimed that the foreclosure suit violated the automatic stay and sought imposition of sanctions and costs. The creditor argued that the property reverted to the debtor upon confirmation of the plan, taking the property out of the protection of the automatic stay. Although the court agreed that confirmation of the Chapter 12 plan revested the property with the debtor, Section 362(a)(5) applies the automatic stay to property of the debtor as well. The court also noted that, unlike Chapter 11 cases, in Chapter 12 cases, no discharge occurs until all plan payments have been made. During the period of the plan, the automatic stay remains in effect, to the extent not otherwise provided by the Chapter 12 plan. therefore, the court held that the foreclosure suit violated the automatic stay. No sanctions were allowed because the debtor delayed in bringing the action and provided no proof of damages. **In re Blankenship, 2013 Bankr. LEXIS 1767 (Bankr. S.D. Ohio 2013)**.

PLAN. An unsecured creditor objected to the debtor's Chapter 12 plan because (1) the plan was not feasible because it was based on speculative information as to income and expenses, (2) the plan did not provide the creditor with as much as would be received in a liquidation case and (3) the plan did not provide for payments of a value, as of the effective date of the plan, equal to the allowed amount of the unsecured claims. However, the Bankruptcy Court proceeding focused on the issue of whether all of the debtor's disposable income was paid in the plan. The Bankruptcy Court held that all disposable income was included in the plan. The creditor appealed this ruling on the basis that there was insufficient evidence to support the ruling. The appellate court acknowledged that an issue was raised as to whether the debtor had accounted for $15,000 between income and plan payments but found no discussion or decision on that issue by the Bankruptcy Court; therefore, the case was remanded for specific findings on the issue. **TD Bank, N.A. v. Burkhalter, 2013 U.S. Dist. LEXIS 24485 (W.D. N.C. 2013)**.

FEDERAL FARM PROGRAMS

NO ITEMS.

FEDERAL ESTATE AND GIFT TAXATION

GENERATION SKIPPING TRANSFERS. The decedent's residuary estate passed to two trusts, a marital trust and a family trust. The marital trust consisted of an amount equal to the maximum allowable marital deduction but no greater amount than necessary to reduce the decedent's federal estate tax to zero. The marital trust provided that the surviving spouse shall receive all of the income, payable at least annually, during the spouse's lifetime. In addition, the trustees may make discretionary payments of principal for the health, support and maintenance of the spouse during lifetime. Upon the spouse's death, all accrued or accumulated trust income shall be paid to the spouse's estate. The trust was to end at the death of spouse, and any remaining balance was to pass to the family trust. The decedent's Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return* was timely filed. On Schedule M (Bequests to Surviving Spouse) the estate made the election under I.R.C. § 2056(b)(7) to treat the property of the marital trust as qualified terminable interest property (QTIP). However, the decedent's Form 706 did not indicate that the marital trust was to be severed into an exempt and a non-exempt trust. The executor of the decedent's estate did not make a reverse QTIP election with respect to any portion of the marital trust. No schedule R was filed with the decedent's Form 706 because no generation-skipping transfers were identified in the disposition of the decedent's estate. The IRS granted an extension of time to sever the marital trust into an exempt trust and a non-exempt trust and to make a reverse QTIP election with respect to the exempt trust. The IRS also ruled that the automatic allocation rules of I.R.C. § 2632(c) will automatically allocate the decedent's unused GST exemption to the exempt trust. **Ltr. Rul. 201316011, Dec. 27, 2012**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has published a revenue procedure which allows a taxpayer to use a safe harbor method of accounting for original issue discount ("OID") on a pool of credit card receivables for purposes of I.R.C. § 1272(a)(6)—the "proportional method." The proportional method generally allocates to an accrual period an amount of unaccrued OID that is proportional to the amount of the stated redemption price at maturity of the pool that is paid by cardholders during the period. The proportional method described in this revenue procedure generally produces the same results as the method described in I.R.C. § 1272(a)(6). The Revenue Procedure also describes the exclusive procedures by which a taxpayer may obtain the Commissioner's consent to change to the proportional method. **Rev. Proc. 2013-26, I.R.B. 2013-22**.

CASUALTY LOSSES. The taxpayers, husband and wife, suffered damage to their basement from flooding. Instead of filing an insurance claim, the taxpayers filed a claim with the city, charging that the city was negligent. The litigation had not concluded as of the end of the tax years involved. The taxpayers claimed a casualty loss for the flood damage which was disallowed by the IRS. The court held that the casualty loss deduction was properly disallowed because chance of recovery from the city law suit was still reasonable. The taxpayers also suffered damage to an automobile and claimed a casualty loss deduction based on a filing of Form 4684, *Casualties and Thefts*. The taxpayers had received an insurance payment based on a total loss of the car and calculated the loss deduction based on subtracting the insurance payment from the cost basis of the car. The court also upheld the IRS disallowance of the loss deduction for the car because the taxpayers failed to provide any evidence of the taxpayers' cost basis in the vehicle. **Cole v. Comm'r, T.C. Summary Op. 2013-34**.

CORPORATIONS

FRANCHISES. The taxpayer corporation had entered into agreements with a franchisee for the exclusive rights to sell products made by the taxpayer. However, the taxpayer later decided not to use third parties and negotiated a termination of the franchise agreement in exchange for a payment. The IRS ruled that the termination payment (1) was capitalizable under Treas. Reg. § 1.263(a)-4(d)(7)(i)(B) and (2) was not properly amortizable over the duration of the franchisee's original useful life of the intangible assets (using the statutory life of 15 years under I.R.C. § 197) when said intangible assets were created. The IRS also ruled that the termination payment may be recovered under I.R.C. § 167(a) if the taxpayer knew from experience or other factors that the intangibles assets were of use in the business or in the production of income for only a limited period, the length of which could be estimated with reasonable accuracy or, if not, under Treas. Reg. § 1.167(a)-3(b). **Ltr. Rul. 201317003, Jan. 24, 2013**.

MUTUAL INSURANCE COMPANY STOCK. The court has issued amended findings of fact and conclusions of law in the following case but did not change the result. The taxpayers, husband and wife, created a trust and used the trust to purchase life insurance policies on their lives. The policies were all purchased from mutual insurance companies. The companies demutualized and the trust received shares of the companies in exchange for its interest in the companies. The trust then sold the shares. Initially, the trust claimed all of the proceeds as taxable but filed for a refund based on the argument that the basis of the stock equalled the IPO value of the stock plus a portion of the premiums paid. The court agreed, holding that the basis of the stock resulted from the mutual ownership rights and voting rights purchased with the policies. **Dorrance v. United States, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,236 (D. Ariz. 2013)**.

DEPENDENTS. The taxpayer was divorced and had two children by the dissolved marriage. The divorce decree provided for joint custody of the children but primary residence with the former spouse. Neither parent kept written records of the amount of time each child lived with each parent during the year. The court noted that the testimony of both parents was equally credible but the provision in the divorce decree granting primary residence to the former spouse was sufficient to rule that the children did not live with the taxpayer more than one half of the year; therefore, the taxpayer could not claim the two children as dependents. **Holmes v. Comm'r, T.C. Summary Op. 2013-32**.

DISABILITY PAYMENTS. The taxpayer administered the payment of retirement and disability benefits for member police officers and firefighters employed by cities, towns and counties in a state. Certain members disabled before July 1, 2000, were not eligible to establish a line-of-duty disability, and, accordingly, their disability benefits were not eligible for favorable tax treatment. The state legislature passed legislation which added a section that establishes a process by which affected members (or their survivors) may apply for a redetermination of whether their disability qualifies, on a prospective basis, as duty-related. The IRS ruled that disability benefits paid under the section of the new legislation, to a member (or as a continuation benefit to a survivor) will not be considered gross income to the recipient under I.R.C. § 104(a)(1). **Ltr. Rul. 201317007, April 3, 2013**.

The taxpayer was employed as a firefighter until the taxpayer was forced to retire because of a service connected disability. Because the taxpayer had more than 20 years of service, the taxpayer was entitled to a service pension as well as a service-connected disability pension. However, because the regular service pension amount was higher than the disability pension, the taxpayer received only the regular service pension amount. Initially, the employer determined that the entire amount was excludible from taxable income but the employer changed to allow only a portion of the pension as disability connected and excludible from taxable income. The disability pension portion was determined as equal to the amount the taxpayer would receive if no regular service pension was included. Thus, the taxable portion was the amount over the disability-connected pension amount. The court upheld this rule as provided in *Rev. Rul. 80-44, 1980-1 C.B. 34*. **Scott v. United States, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,300 (C.D. Calif. 2013)**.

DISASTER LOSSES. On April 8, 2013, the President determined that certain areas in Oklahoma are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of a severe winter storm which began on February 24, 2013. **FEMA-4109-DR**. Accordingly, taxpayers in the areas may deduct the losses on their 2012 federal income tax returns. See I.R.C. § 165(i).

DISCHARGE OF INDEBTEDNESS. The taxpayer was a 50 percent partner in an LLC treated as a partnership. The partnership was in the real estate business and owned commercial property. The partnership renegotiated a loan, which resulted in discharge of indebtedness which was reported on the Form 1065 and Schedule K-1. However, the taxpayer did not realize that the discharge of indebtedness income was qualified real property business indebtedness eligible to be excluded from income under an I.R.C. § 108(c)(3)(C) election. The taxpayer filed a personal income tax return without making the election. The IRS granted an extension of time to file an amended partnership return and a personal income tax return with the election. **Ltr. Rul. 201316009, Jan 18, 2013; Ltr. Rul. 201316010, Jan 18, 2013**.

EMPLOYEE BENEFITS. The IRS has issued a notice which provides that: (1) the maximum value of employer-provided vehicles first made available to employees for personal use in calendar year 2013 for which the vehicle cents-per-mile valuation rule provided under Treas. Reg. § 1.61-21(e) may be applicable is $16,000 for a passenger automobile and $17,000 for a truck or van; and (2) the maximum value of employer-provided vehicles first made available to employees for personal use in calendar year 2013 for which the fleet-average valuation rule provided under Treas. Reg. § 1.61-21(d) may be applicable is $21,200 for a passenger automobile and $22,300 for a truck or van. If an employer provides an employee with a vehicle that is available to the employee for personal use, the value of the personal use must generally be included in the employee's income and wages. I.R.C. § 61; Treas. Reg. § 1.61-21. If the employer meets certain requirements, the employer may elect to determine the value of the personal use using certain special valuation rules, including the vehicle cents-per-mile rule and the fleet-average value rule set forth in Treas. Reg. § 1.61-21(d) and (e), respectively. Both the vehicle cents-per-mile rule and the fleet-average value rule provide that those rules may not be used to value personal use of vehicles that have fair market values exceeding specified maximum vehicle values on the first day the vehicles are made available to employees. These maximum vehicle values are indexed for inflation and must be adjusted annually by referring to the Consumer Price Index. In previous years these maximum vehicle values and guidance on their calculation and application have been provided by Revenue Procedure. See, e.g., *Rev. Proc. 2012-13 I.R.B. 2012-3*. Guidance on the calculation and application of these maximum vehicle values is set forth in Treas. Reg. § 1.61-21(d) and (e) and does not change from year-to-year. Accordingly, beginning this year, only the maximum vehicle values as adjusted for inflation will be published annually in a shorter notice. **Notice 2013-27, I.R.B. 2013-27**.

FOREIGN ACCOUNTS. A default judgment for unpaid taxes was entered against the taxpayer and the taxpayer was ordered to repatriate funds in foreign trusts to be used to pay the taxes. Instead the taxpayer had funds transferred from the foreign trusts to accounts in the names of the taxpayer's children. The IRS sought an injunction to prohibit the taxpayer from repatriating any funds from the trusts for use other than the payment of the unpaid taxes. The court granted the injunction, holding that the federal tax lien reached the foreign assets, the IRS was without any other remedy, the loss of the funds substantially harmed the United States, and the taxpayer had engaged in tax avoidance schemes by transferring trust funds to the children. **United States v. Grant, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,292 (S.D. Fla. 2013)**.

FOREIGN HOUSING. The IRS has published a notice which provides adjustments to the limitation on housing expenses for purposes of I.R.C. § 911 for specific locations for 2013. These adjustments are made on the basis of geographic differences in housing costs relative to housing costs in the United States. I.R.C. § 911(a) allows a qualified individual to elect to exclude from gross income the foreign earned income and housing cost amount of such individual. I.R.C. § 911(c)(1) defines the term "housing cost amount" as an amount equal to the excess of (1) the housing expenses of an individual for the taxable year to the extent such expenses do not exceed the amount determined under I.R.C. § 911(c)(2), over (2) 16 percent of the exclusion amount (computed on a daily basis) in effect under I.R.C. § 911(b)(2)(D) for the calendar year in which such taxable year begins ($267.40 per day for 2013, or $97,600 for the full year), multiplied by the number of days of that taxable year within the applicable period described in I.R.C. § 911(d)(1). The applicable period is the period during which the individual meets the tax home requirement of I.R.C. § 911(d)(1) and either the bona fide residence requirement of I.R.C. § 911(d)(1)(A) or the physical presence requirement of I.R.C. § 911(d)(1)(B). Assuming that the entire taxable year of a qualified individual is within the applicable period, the I.R.C. § 911(c)(1)(B) amount for 2013 is $15,616 ($97,600 x .16). **Notice 2013-31, I.R.B. 2013-21**.

HEALTH SAVINGS ACCOUNTS. For tax years beginning after December 31, 2013, the maximum annual HSA is the indexed statutory amount, without reference to the deductible of the high deductible health plan. For calendar year 2014, the limitation on deductions under I.R.C. § 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan is $3,300 ($6,550 for family coverage). For calendar year 2014, a "high deductible health plan" is defined under I.R.C. § 223(c)(2)(A) as a health plan with an annual deductible that is not less than $1,250 for self-only coverage or $2,500 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed $6,350 for self-only coverage or $12,700 for family coverage. **Rev. Proc. 2013-25, I.R.B. 2013-21**.

INCOME. The taxpayer, a musician, received compensation for services provided to several companies. Each company issued a Form W-2 listing the compensation. However, the taxpayer did not include the amounts in taxable income and filed Form 4852, *Substitute for Form W-2, Wage and Tax Statement*, and claimed that the amounts listed on the W-2 Forms were incorrect. The court held that the arguments made by the taxpayer were frivolous, tax protester arguments not worth refuting. The taxpayer also argued that the income was not taxable because the employers were no "Subtitle C statutory employers;" however, the court held that the amounts received by the taxpayer were taxable income regardless of the status of the employers. **Snow v. Comm'r, T.C. Memo. 2013-114**.

The taxpayer owned a sole-proprietorship business and received wages from employment with another company. The IRS examined the taxpayer's bank account deposits and determined that the taxpayer had additional, unreported income from a trade or business. Although the taxpayer successfully challenged the IRS bank account analysis on several deposits, the court found that the analysis was otherwise accurate and properly performed; therefore the taxpayer owed income and self-employment taxes on the additional income. **Martell v. Comm'r, T.C. Memo. 2013-115**.

INNOCENT SPOUSE RELIEF. The taxpayer was separated but still married when the taxpayer requested innocent spouse relief from assessed taxes. The taxes resulted from disallowance of casualty loss deductions for flood damage to their home and vehicle claimed on two joint returns. The taxpayer and spouse had hired a tax return preparer to prepare the returns but neither reviewed the returns for accuracy. The court upheld IRS denial of innocent spouse relief because (1) the couple were still married, (2) the taxpayer was held to have unreasonably relied on the tax return preparer and should have known that the deductions were not legitimate, and (3) the taxpayer failed to show that the casualty loss deductions were based on the other spouse's income about which the taxpayer was deceived. **Cole v. Comm'r, T.C. Summary Op. 2013-34**.

LEGAL EXPENSES. The taxpayer was a wholly-owned corporation which had a shareholder who was charged with fraud and tax evasion. The taxpayer paid for some of the shareholder's legal fees in defending against the charges and subsequent appeal. The court held that the legal fees were not deductible by the taxpayer because the charges resulted from the personal actions of the shareholder and not in furtherance of the taxpayer's business. The appellate court affirmed in a decision designated as not for publication. **HIE Holdings, Inc. v. Comm'r, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,289 (9th Cir. 2013), *aff'g*, T.C. Memo. 2009-130**.

LIFE INSURANCE. The taxpayers, husband and wife, were the only employees of an S corporation owned solely by the husband. The corporation provided death and severance benefits for the taxpayers, funded with life insurance on the taxpayers. The corporation stopped paying the insurance premiums and the policies were distributed to the taxpayers. The cash surrender value of the policy was less than the surrender charges on the date of distribution but the IRS assessed a tax deficiency based on the cash surrender value of the policy without any reduction for the surrender charges. The policy was not surrendered but only transferred to the husband. The Tax Court held that the fair market value of the policy was taxable and included the effect of the surrender charges which were assessable, but not assessed, against the policy. The appellate court affirmed.**Schwab v. Comm'r, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,294 (9th Cir. 2013), *aff'g*, 136 T.C. 120 (2011)**.

OFFSETS. The IRS has published information about tax refund offsets. A tax refund offset generally means the U.S. Treasury has reduced a taxpayer's federal tax refund to pay for certain unpaid debts. The Treasury Department's Financial Management Service is the agency that issues tax refunds and conducts the Treasury Offset Program. If a taxpayer has unpaid debts, such as overdue child support, state income tax or student loans, the FMS may apply part or all of a tax refund to pay that debt. The taxpayer will receive a notice from FMS if an offset occurs. The notice will include the original tax refund amount and the offset amount. It will also include the agency receiving the offset payment and that agency's contact information. If a taxpayer believes the taxpayer does not owe the debt or wants to dispute the amount taken from the refund, the taxpayer should contact the agency that received the offset amount, not the IRS or the FMS. If the taxpayer filed a joint tax return, the taxpayer may be entitled to part or all of the refund offset. This rule applies if the taxpayer's spouse is solely responsible for the debt. To request the taxpayer's part of the refund, file Form 8379, *Injured Spouse Allocation*. **IRS Tax Tip 2013-60**.

PARTNERSHIPS.

FOREIGN PARTNERS. Effective for partnership taxable years beginning in 2012, partnerships that have effectively connected taxable income (ECTI) allocable to a foreign partner must file a 2012 Form 8804, *Annual Return for Partnership Withholding Tax (Section 1446)*, for any taxable year that begins in 2012. In all such cases, the 2012 Form 8804 continues to apply the tax rates in effect in 2012 for purposes of determining the amount of I.R.C. § 1446 withholding tax that partnerships must pay for taxable years beginning in 2012. Foreign partners in a fiscal year partnership with a taxable year ending in 2013 nonetheless must pay tax on their distributive share of the partnership's ECTI based on the tax rates in effect in the taxable year of their inclusion as determined under I.R.C. § 706(a). **Ann. 2013-30, I.R.B. 2013-21**.

TRUSTS. The taxpayers, husband and wife, were medical professionals. The husband was a doctor who performed traditional and alternative medical treatment. The wife was employed as a nurse. After attending seminars presented by a tax sham trusts promoter, the husband claimed to have created three trusts to own medical equipment and real estate as a means to protect the property from lawsuit relating to the alternative medical practice because the husband found it difficult to obtain insurance for that practice. However, the court found no evidence that the property was actually transferred to the trusts. The husband also owned two professional corporations which paid income from the husband's practice to the trusts. The transfers to the trusts were arranged such that the personal income of the husband was disguised as business payments and deductions. The court held that the trusts were shams because (1) the taxpayer's relationship to the trust property did not materially change after the trusts were created; (2) the trusts did not have an independent trustee; (3) no economic interest in the trusts, other than a small contribution by one of the trusts, passed to other beneficiaries; and (4) the couple was not bound by any restrictions imposed by the trusts or the law of trusts. NOTE: the trust promoter in this case has a long history in being challenged for sham trusts dating back 30 years. **Vlach v. Comm'r, T.C. Memo. 2013-116**.

SECURED TRANSACTIONS

FEDERAL FARM PRODUCTS STATUTE. The plaintiff bank obtained a security interest in crops grown by a debtor. The debtor sold those crops to the defendant and failed to pay the plaintiff on the loan. The plaintiff argued that the defendant failed to protect the plaintiff's security interest by making the sales proceeds check out to the debtor and plaintiff jointly. The plaintiff sent a notice under section 1631(e) of the Food Security Act of 1985. The notice contained the following language: "The farm products described above are or may be located on (describe property and county or parish where farm products are or may be located)***." The form then provided a blank space for the information, but the information was never filled in. The notice also failed to name the county where the farm products are or may be located. Below the blank space on the forms was a check box that was marked with an "X." Next to the check box, the notice read: "The security interest also covers the described farm products wherever located and is not limited to those located on the above property." The notices also stated that any check issued to the debtor must be (1) made payable both to the debtor and to the plaintiff; (2) delivered to or received by the secured party; and (3) paid. The plaintiff argued that the notice was sufficient because it substantially complied with the statutory notice. Although the court acknowledged that some courts had allowed substantial compliance, the court held that the better rule was that the statutory notice required strict compliance with the notice provisions; therefore, the plaintiff's security interest was not protected under the Act. The appellate court affirmed. **State Bank of Cherry v. CGB Enterprises, Inc., 2013 Ill. LEXIS 273 (Ill. 2013), *aff'g*, 964 N.E.2d 449 (Ill. Ct. App. 2012)**.

VEHICLES

AGRICULTURAL VEHICLES. The defendant was transporting feed corn for the defendant's cattle on the highway in an International Harvester truck that had been modified with a hoist, feedbox, and tailgate. The defendant was cited for using dyed fuel on the public roadways without a permit. The defendant argued that his truck was designed for agricultural work and bore physical characteristics that rendered its primary use off-road and off-highway; therefore, under the defendant was entitled to a special exemption from the prohibition against dyed fuel on the public roadways. The court noted that the administrative hearing officer had considered the modifications to the truck but reached a determination that the current design was the same as the original design—to transport people or property on the public highways. Even though the defendant primarily used the vehicle on his ranch, off public highways and roads, the truck was designed for the transfer of people and property on public roads, and the defendant was using it on a public road on the day in question; therefore, the court held that the agricultural use exemption did not apply to allow the defendant to use dyed fuel in the vehicle on a public highway. The court noted that such an exemption was generally limited to occasional public highway use only for movement between portions of a farm or for repairs of the vehicle. Because the truck was used to obtain and haul feed from a town, the exemption did not apply. **Coleman v. The State of Montana, 2013 Mont. LEXIS 99 (Mont. 2013)**.

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The topics include:

First day

FARM INCOME TAX

New Legislation

Reporting Farm Income
- Leasing land to family entity
- Constructive receipt of income
- Deferred payment and installment payment arrangements for grain and livestock sales
- Using escrow accounts
- Payments from contract production
- Items purchased for resale
- Items raised for sale
- Crop insurance proceeds
- Weather-related livestock sales
- Sales of diseased livestock
- Reporting federal disaster assistance benefits
- Gains and losses from commodity futures, including consequences of exceeding the $5 million limit

Claiming Farm Deductions
- Soil and water conservation expenditures
- Fertilizer deduction election
- Depreciating farm tile lines
- Farm lease deductions
- Prepaid expenses
- Preproductive period expense provisions
- Regular depreciation, expense method depreciation, bonus depreciation
- Paying rental to a spouse
- Paying wages in kind
- Section 105 plans

Sale of Property
- Income in respect of decedent
- Sale of farm residence
- Installment sale including related party rules
- Private annuity
- Self-canceling installment notes
- Sale and gift combined.

Like-Kind Exchanges
- Requirements for like-kind exchanges
- "Reverse Starker" exchanges
- What is "like-kind" for realty
- Like-kind guidelines for personal property
- Partitioning property
- Exchanging partnership assets

Taxation of Debt
- Turnover of property to creditors
- Discharge of indebtedness
- Taxation in bankruptcy.

Second day

FARM ESTATE AND BUSINESS PLANNING

New Legislation

Succession planning and the importance of fairness

The Liquidity Problem

Property Held in Co-ownership
- Federal estate tax treatment of joint tenancy
- Severing joint tenancies and resulting basis
- Joint tenancy and probate avoidance
- Joint tenancy ownership of personal property
- Other problems of property ownership

Federal Estate Tax
- The gross estate
- Special Use Valuation
- Family-owned business deduction recapture
- Property included in the gross estate
- Traps in use of successive life estates
- Basis calculations under uniform basis rules
- Valuing growing crops
- Claiming deductions from the gross estate
- Marital and charitable deductions
- Taxable estate
- The applicable exclusion amount
- Unified estate and gift tax rates
- Portability and the new regulations
- Federal estate tax liens
- Undervaluations of property

Gifts
- Reunification of gift tax and estate tax
- Gifts of property when debt exceeds basis

Use of the Trust

The General Partnership
- Small partnership exception
- Eligibility for Section 754 elections

Limited Partnerships

Limited Liability Companies
- Developments with passive losses
- Corporate-to-LLC conversions
- Eligibility for "small partnership" exception
- New regulations for LLC and LLP losses

Closely Held Corporations
- State anti-corporate farming restrictions
- Developing the capitalization structure
- Tax-free exchanges
- Would incorporation trigger a gift because of severance of land held in joint tenancy?
- "Section 1244" stock

Status of the Corporation as a Farmer
- The regular method of income taxation
- The Subchapter S method of taxation, including the "two-year" rule for trust ownership of stock
- Underpayment of wages and salaries

Financing, Estate Planning Aspects and Dissolution of Corporations
- Corporate stock as a major estate asset
- Valuation discounts
- Dissolution and liquidation
- Reorganization

Social Security
- In-kind wages paid to agricultural labor

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